

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

IN RE:

BKY. NO. 03-38395

JASON MICHAEL PLATH,

DEBTOR(S).

RESPONSE

TO: U.S. Trustee, Paul W. Bucher, Chapter 7 Trustee, and all parties in interest entitled to notice under Bankruptcy Rules 2002, 9010 and Local Rule 2002-1.

1. Debtor, by and through his undersigned attorney of record and pursuant to Local Rule 9013-2(b), interposes this Response in opposition to the Notice of Hearing and Motion for Turnover tendered to the Court by the Chapter 7 trustee. Hearing on this matter is set for November 22, 2004 at 3:00 p.m. before the Hon. Gregory F. Kishel, Chief Judge of Bankruptcy Court in United States Bankruptcy Court, Courtroom 228B, 316 North Robert Street, Saint Paul, MN 55101.
2. This Chapter 7 case was commenced on December 15, 2003. The debtor's 11 U.S.C. § 341 First Meeting of Creditors was duly conducted on February 4, 2004.
3. The trustee's motion pertains to the debtor's apparent failure to turnover certain information and documentation. The trustee has requested that the debtor be ordered to pay the trustee \$250.00 as for attorneys fees and costs.
4. The debtor contends that an award of attorneys fees to the trustee would be unjustified as no level of malice or purposeful evasion on the part of the debtor has been affirmatively established.
5. If testimony is necessary at the foregoing hearing, the debtor may be called to testify as to the foregoing and as to any facts necessary to augment and further explain the same. The trustee and any witnesses called by him may also be called by the debtor to testify.
6. Counsel for the debtor has requested that the debtor turnover said documentation and request has been made of the debtor again. Counsel for the debtor anticipates that the debtor will turnover said property shortly.

WHEREFORE, the debtor respectfully requests the Court to deny the trustee's motion in its entirety and to grant any further relief it deems appropriate and equitable in the premises.

Dated: this 26th day of October, 2004.

ESKENS, GIBSON & BEHM LAW FIRM, CHTD.

/s/ Stephen J. Behm
Stephen J. Behm, #263758
Attorney for Debtor
115 East Hickory Street, Suite 200
P.O. Box 1056
Mankato, MN 56002-1056
Telephone: (507) 345-5500

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**UNSWORN CERTIFICATE
OF SERVICE**

I, Stephen J. Behm, attorney with Eskens, Gibson & Behm Law Firm, Chtd., 115 East Hickory Street, Suite 200, P.O. Box 1056, Mankato, MN 56002-1056, declare that on October 26, 2004, I mailed copies of the attached **Response** by first class mail postage prepaid to each entity named below at the addresses stated below for each entity.

Paul W. Bucher, Chapter 7 Trustee, P.O. Box 549, Rochester, MN 55903.

U.S. Trustee, 1015 U.S. Courthouse, 300 South Fourth Street, Minneapolis, MN 55415.

Jason Michael Plath, P.O. Box 168, Welcome, MN 56181-0168.

Dated: this 26TH day of October, 2004.

ESKENS, GIBSON & BEHM LAW FIRM, CHTD.

/s/ Stephen J. Behm
Stephen J. Behm, #263758
Attorney for Debtor
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